

Moore  
(09/829,643

### REMARKS

The undersigned acknowledges the courteous treatment received during the course of an interview with the Examiner held on this date.

The Examiner noted that the identifier for claim 1 was incorrect. This has been corrected in the present amendment.

The Examiner took the position that there was insufficient support in the specification for the clause beginning "selecting a pitcher...". This clause has been canceled.

Also objected to was the use of the word "official" in connection with the rules of baseball in the claim. The expression has been also been canceled.

The undersigned pointed out that none of the references, alone or in any combination, suggested a method for improving the hitting ability or skills of a baseball player in prescribed steps of a method, as recited in claim 24. The claimed method includes specific steps to accomplish this goal. The primary reference Randal relates to "toys and games" (first par. of patent) using a projectile for use primarily by younger children. Admittedly the "projectile" is virtually identical to the ball used in the present invention. But the present method is one for teaching baseball batters to improve their batting ability and involves the prescribed steps recited in claim 24. The other reference cited (Franklin) relates to the training of pitchers.

In apparatus claims, the purpose or function of the structure may not be significant, but in method claims function is of great importance, and that is what is being ignored in the rejection, in the opinion of the undersigned.

Following the interview, and with the permission of the Examiner, the undersigned called the Examiner's supervisor to discuss the case and request a personal interview, because the Examiner indicated she had consulted with her supervisor on the matter.

The supervisor indicated that a personal interview with him at this time is not appropriate, but said that in the event of a final action, he would agree to such an interview.


Claim 24 has also been amended to replace "comprising" with "consisting of" in order to further restrict the scope of the claimed invention.

The Examiner is requested to call the undersigned or Mr. Kroll if any changes are required to obtain allowance of this application.

A favourable action is solicited.

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Respectfully submitted,

  
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CERTIFICATE OF FAXING

I hereby certify that this correspondence is being facsimile transmitted to the U. S.

Patent and Trademark Office, telephone number 703-872-9306 on July 29, 2004.

  
Leonard Belkin